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| Notice of Allowability | Application No. | Applicant(s) | |
| | 10/071,545 | HORNSBY ET AL. | |
| | Examiner | Art Unit | |
| | Dmitry Suhol | 3714 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to applicant's amendment filed 2/14/2005.
2. ☒ The allowed claim(s) is/are 25-43,45 and 46.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☒ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

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| <ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____ 7. <input type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____ |
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REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: The specific limitations of a combination of (with respect to claim 25) "...a key receiving device associated with the body, the key receiving device configured to receive a keying device which actuates data transfer to the microprocessor, wherein the data enables a function of the device...a swipe card reader configured to read a swipe card, the swipe card reader is associated with the body and the swipe card reader is operably coupled to the microprocessor...", (with respect to claim 27) "...a key receiving device associated with the body, the key receiving device configured to actuate the microprocessor when a keying device is inserted into the key receiving device; and a swipe card reader configured to read a swipe card, whereby a function of the microprocessor is modified", (with respect to claim 35) "...a shape-specific key receiving device, the shape-specific key receiving device configured to be actuable by a shape-specific key whereby the microprocessor is actuated; and a swipe card reader adapted to receive enhancement data from a swipe card and to transmit the enhancement data to the microprocessor after said swipe card has been swiped, wherein the enhancement data is adapted to provide an enhanced function of the apparatus , and wherein said swipe card reader of said apparatus is also adapted such that one or more additional swipes of said swipe card while the apparatus is in operation results in said enhanced function being further enhanced" and (with respect to claim 45) "...a shape-specific key receiving device, the shape-specific key receiving device configured to be actuable by a shape-specific key

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whereby the microprocessor is actuated; and a swipe card reader adapted to receive enhancement data from one or more different swipe cards and to transmit the enhancement data from each of said one or more different swipe cards to the microprocessor to enhance one or more functions of said apparatus, said one or more functions enhanced will depend upon which of said one or more swipe cards has been swiped through said swipe card reader, and wherein said swipe card reader of said apparatus is also adapted such that one or more additional swipes of said one or more different swipe cards while the apparatus is in operation results in said one or more functions enhanced being further enhanced” with the other limitations of the respective claims are not anticipated or made obvious over the prior art of record in the examiners opinion. For example, Mathieu et al '486 discloses an interactive amusement device including a body (fig. 1, element 22), at least two transport elements movably connected to a body (fig. 1, elements 38), at least two arms connected to a body (fig. 1), a motor associated with a body and coupled to two transport (fig. 6, elements 42), a microprocessor (figure 6, element 58), a wireless receiver associated with a body (fig. 8, element 64), a unit wireless transmitter associated with a body and coupled with a microprocessor (figure 1, element 20), a remote wireless transmitter operably coupled with a wireless receiver (figure 1, element 46). Lebensfeld discloses an amusement device, like that of Mathieu, which teaches arms movably connected to a body (col. 7, lines 31-36) where the functions of the amusement device can be upgraded or turned on through a computer and a telephone jack connection. However the combination of the Mathieu and Lebensfeld references fails to disclose all of the claimed features of

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applicant's invention, specifically, a swipe card reader operably coupled to the microprocessor and prior art of record fails to teach or suggest such a combination.

Additionally, Broadfield (WO 95/30973) discloses an amusement device including a body (element 2), a microprocessor operably coupled to a motor and configured to actuate the motor to propel an action (last sentence on page 2 and first sentence on page 3), a shape-specific key receiving device (read onto the coin operated slot described on page 2, first sentence), a swipe card reader (read onto the credit card swipe module described on page 2, last paragraph) operably coupled to a microprocessor (page 2, last paragraph) where it is considered that since the device receives data from a swipe card and in turn movement and visual effects are initiated/enhanced (considered to be an enhanced function of the device) and that the data presents enhancement data. However Broadfield fails to suggest that the functionality of his device can be enhanced by additional card swipes while the apparatus is operational. Prior art of record also fails to teach or disclose motivation for the above limitations.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 571-272-4430. The examiner can normally be reached on Mon - Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JESSICA HARRISON
PRIMARY EXAMINER